



**The Confederated Salish & Kootenai Tribe (CSKT) - Montana Compact:
Flathead Water Management Board, Registration of Existing Uses, Adjudication,
and other Frequently Asked Questions**

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Overview

The Confederated Salish and Kootenai Tribes (CSKT) – Montana Compact was federally approved by the Secretary of the Interior on September 17, 2021 which triggers the effective date of the Compact and a 180-day filing opportunity to register existing state-based water uses on the Reservation (“Registrations”) per the Compact (85-20-1901, MCA) and Unitary Administration and Management Ordinance (85-2-1902, MCA).

The CSKT-Montana Compact is the result of more than a decade of negotiations to resolve the Tribes’ claims to reserved water rights. It includes State, Federal, and Tribal authorizations. The State of Montana ratified the Compact in 2015 ([MCA 85-20-1901](#)); the Federal government approved the Compact in late 2020 (Montana Water Rights Protection Act); the CSKT Tribal Council approved the Compact two days later; and the final step in federal approval occurred on September 17, 2021. On this ‘Effective Date,’ the [Unitary Administration and Management Ordinance](#) (Ordinance) took effect, and the Water Management Board (“Board”) was established. This Board is a regulatory body comprised of members appointed by both the State of Montana and the Tribes and is the authority for all water right permitting and changes within the Flathead Indian Reservation (Reservation) in perpetuity. It will take some time for the State of Montana and Tribes to make their selections for the Board.

Timeline Summary



Frequently Asked Questions

1. What is the CSKT-Montana Water Compact?

The Reserved Water Rights Compact Commission (RWRCC) was established by the 1979 Montana Legislature to negotiate the reserved water rights of Montana Indian Tribes and the federal government. These negotiations resulted in numerous water right agreements (i.e., compacts). The objective was to quantify and recognize federal and tribal reserved water rights. The Compact quantifies the Tribal reserved water right of the Confederated Salish and Kootenai Tribes of the Flathead Reservation (“CSKT” or “Tribes”), providing certainty to Montana water users in the future. It also provides funding for the rehabilitation of the Flathead Indian Irrigation Project and the flexible management of up to 90,000 acre-feet of water per year from the Flathead system, both of which will contribute to the goals of providing water to satisfy the Tribal reserved right while also protecting existing state-based water users.

2. What is the Unitary Management and Administration Ordinance?

The [Unitary Administration and Management Ordinance](#) (“Ordinance”) is the law that governs all water rights on the Reservation under both State and Tribal law; it became effective on September 17, 2021.

3. What is the Flathead Water Management Board?

The Compact establishes a Water Management Board to administer the Ordinance on the Reservation. This means that all Flathead Reservation water administration decisions moving forward are under the Board's authority. The Board has five voting members: two members selected by the Governor; two members appointed by the Tribal Council; and one member selected by the other four members. The Secretary of the Interior may appoint a sixth, non-voting member. The [Compact](#) and [Ordinance](#) describe the powers and duties of the Board.

4. What is the Office of the Engineer?

The Compact and Ordinance provide for the hiring of a Water Engineer and staff to be the technical arm of the Board. The Office of the Engineer will operate much like a DNRC regional office in its day-to-day activities—reviewing water right applications, entering them into the DNRC water rights database, answering questions from the public, assisting with forms, etc. Unlike a regional office, however, the Office of the Engineer does not ultimately approve water right applications. These must be formally approved or denied by the Board. In essence, the Water Engineer is the professional staff, or operating arm, of the Board.

5. What is a registration of Existing Use and why is it needed?

Regarding state-based existing uses, in the late 1990s, the Montana Supreme Court ruling in the *Ciotti* cases stripped the Montana DNRC of regulatory jurisdiction to permit new water uses on the Flathead Indian Reservation until the Tribes' reserved water rights were fully quantified (via the Compact). This action created a 25-year regulatory void. To resolve this issue, the Ordinance provides registration opportunities for existing state-based water uses (Section 2-1-106 & 2-1-107). The Ordinance also provides registration opportunities for existing uses of the Tribal Water Right (Section 2-1-101 & 2-1-102).

6. What is the difference between a state-based registration and a tribal registration – which one should I file?

Only the Tribes, Tribal Members, and Allottees who have an existing use (as defined in the Ordinance) can file for a registration of the Tribal Water Right. Questions about Tribal registrations should be directed to the CSKT.

State-based registrations can be filed for an eligible existing use so long as the person(s) filing the registration have possessory interest in the points of diversion, conveyances, and place of use.

7. What is an eligible state-based “existing use” that can be registered under the Ordinance?

Existing water uses on the Flathead Reservation developed before the Effective Date (**9/17/2021**) that were not previously filed with DNRC may be registered with the Board for a limited, 180-day time period following the Effective Date (closing on March 16, 2022). **See the DNRC [registration webpage](#) for more information (<http://dnrc.mt.gov/cskt-mt-compact-registrations>).**

8. Do I need to file for a state-based registration?

If you or a previous landowner already filed, you do not need to file again. This registration process is designed to give state-based water users a chance to register previously unrecorded existing uses. If you are uncertain, please contact your DNRC regional Water Resource office. (For Flathead, Lake, or Sanders County, contact the Kalispell Regional Office at 406-752-2288. For Missoula County, contact the Missoula Regional Office at 406-721-4284).

For more information, see the "[Water Rights Query System Instructions](#)" document linked on the DNRC [registration webpage \(http://dnrc.mt.gov/cskt-mt-compact-registrations\)](http://dnrc.mt.gov/cskt-mt-compact-registrations).

9. How does the public file registrations when the Board is not yet formed?

DNRC's Water Resources Division Regional Offices in Kalispell and Missoula will accept registration forms on behalf of the Board for the 180-day time period following the Effective Date. Form filing fees will be paid to "DNRC for the benefit of the FWMB." Forms and fees will be transferred by DNRC to the Board and Office of the Engineer after they become operational.

10. How long do I have to file a registration for a state-based existing use?

The filing period for eligible existing uses is limited to 180 days starting on September 17, 2021 and ending on March 16, 2022.

11. Until the Board and Office of the Engineer are operational, is there a way to apply for new water rights or change in use authorizations on the Reservation?

No, there is no way to apply for new water rights or changes in use until the Board and Office of the Engineer are operational. DNRC will not accept any applications for new appropriations developed after the Effective Date or changes to existing water rights and will instead instruct the public to wait for the formation of the Water Management Board and to apply to the Board once it is operational.

12. When can I apply for water uses developed after the Effective Date?

All water uses developed after the Effective Date (09/17/2021) require pre-approval from the Board; the Water Management Board and the Office of the Engineer must be operational before new developments occur. DNRC will not accept any applications for new appropriations developed after the Effective Date or changes to existing water rights and will instead instruct the public to wait for the formation of the Water Management Board and to apply to the Board once it is operational.

13. When will the Water Management Board be open for business?

Board members are to be appointed within six months of the Effective Date (by March 16, 2022). It is difficult to estimate how many days or months it will take for the Board and Office of the Engineer to become operational. Once the Board has been formed, the Board will establish the Office of the Engineer.

14. Does the Water Management Board have jurisdiction over water rights located off the Reservation?

No. The Board's jurisdiction is limited to water rights located within the exterior boundaries of the Flathead Indian Reservation.

15. How does the Effective Date or the formation of the Board affect the Montana Water Court’s jurisdiction to adjudicate water rights located on the Reservation?

The Effective Date alters nothing regarding the Montana Water Court’s jurisdiction to adjudicate state-based water right claims filed in the general statewide adjudication for water uses located on the Flathead Indian Reservation (or elsewhere).

For questions not addressed here, please contact DNRC Compact Implementation Staff:

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